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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/166,701 | 10/05/1998 | ISA ODIDI | SMI-005.01 | 9432 |

25181 7590 02/27/2004

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

EXAMINER

WEBMAN, EDWARD J

| | |
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| ART UNIT | PAPER NUMBER |
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1617

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
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Washington, D.C. 20231

| SERIAL NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
|---------------|-------------|-----------------------|---------------------|
| 375767 | | | |

| EXAMINER | |
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| ART UNIT | PAPER NUMBER |
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DATE MAILED:

Below is a communication from the EXAMINER in charge of this application
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run _____ or continues to run 2 months from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

- ☒ Applicant's response to the final rejection, filed 12/8/03 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and /or specification will not be entered and the final rejection stands because:

- a) ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b) ☒ They raise new issues that would require further consideration and/or search. (See Note 58 in a bottle near claim 71)
- c) ☒ They raise the issue of new matter. (See Note as filed, in closed the subject matter now claimed of the P.6 & 7 comments/remarks do not specify that the material was in the specification as filed.)
- d) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e) ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: Applicant was requested to cancel non-elected claims to a container (58-70). I note, Non-examined container are now presented, questionably as it is not clear both container & 58, or just 58 is claimed. In this case, 58 is now on priority, in 46, it was a hardened shape.

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: _____
Claims objected to: _____
Claims rejected: 46-57

However;

- ☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because Applicant's arguments are directed toward matter not clearly pointed out as in the application as filed, not in accord with previous

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented. Then, the rejection of 9/02/03 is maintained.

- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other
New phone: 571-272-0619

Neil S. Levy
NEIL S. LEVY
PRIMARY EXAMINER